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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिसे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

NOTIFICATION

CENTRAL EXCISES

New Delhi, the 11th May 1968

G.S.R. 872.—In exercise of the powers conferred by section 37 of the Central Excises and Salt Act, 1944 (1 of 1944), the Central Government hereby makes the following rules further to amend the Central Excise Rules, 1944, namely—

1. These rules may be called the Central Excise (Third Amendment) Rules, 1968.

2. In rule 2 of the Central Excise Rules, 1944 (hereinafter referred to as the principal rules), after clause (i), the following clause shall be inserted, namely—

“(1a) “assessment” means assessment of duty made by the proper officer and includes re-assessment, provisional assessment under rule 9B,

summary assessment under rule 37A, best judgment assessment under rule 173K and any order of assessment in which the duty assessed is nil;"

3. Rule 52B of the principal rules shall be omitted;

4. After Chapter VII of the principal rules, the following Chapter shall be inserted, namely :—

"CHAPTER VII-A—

*Removal of excisable goods on determination of duty by producers, Manufacturers
or private warehouse licensees*

173A. Application.—(1) Except as hereinafter provided, the provisions of this Chapter shall apply,—

(i) to such excisable goods as the Central Government may, by Notification in the Official Gazette, specify in this behalf; and

(ii) if the Collector makes a direction in writing to that effect, to any other excisable goods which are produced, manufactured or warehoused within the precincts of a factory in which goods specified as aforesaid are produced or manufactured, and

where there is a conflict between the provisions of this Chapter and the provisions contained in any other Chapter, in relation to such excisable goods, the provisions of this Chapter shall prevail.

(2) Nothing in this Chapter shall apply to the removal, of the goods specified under sub-rule (1), by the producer, manufacturer or licensee of a private warehouse (hereafter in this Chapter referred to as 'the assessee') from any place where they are produced or manufactured or any premises appurtenant thereto, which may be specified in this behalf by the Collector or from a store-room or other place of storage approved by the Collector under rule 47 or, as the case may be, from a private warehouse licensed under rule 140, otherwise than for home use, and in particular—

(i) for export whether under claim for rebate of duty or in bond; or

(ii) for removal in bond; or

(iii) for destruction without payment of duty; or

(iv) where such goods being tobacco, for agricultural use.

Explanation.—The expression 'home use' means consumption of such goods within India for any purpose and includes use of such goods in the place of production or manufacture or any other place or premises (whether by continuous process or not), for manufacture of any commodity.

(3) Nothing in this Chapter shall apply to a manufacturer or producer who has been allowed to discharge his duty liability in accordance with the provisions contained in sections E-VII and E-VIII of Chapter V.

173B. Assessee to file list of goods for approval of the proper officer.—(1) Before removing any excisable goods for, or putting to, home use, every assessee shall file with the proper officer for approval a list in such form as the Collector may direct, in quadruplicate, showing—

- (a) the full description of (i) all excisable goods produced or manufactured by him, (ii) all other goods produced or manufactured by him and intended to be removed from his factory, and (iii) all the excisable goods warehoused in his warehouse;
- (b) the item number and sub-item, if any, of the First Schedule to the Act under which each such goods fall;
- (c) the rate of duty leviable on each such goods; and
- (d) such other particulars as the Collector may direct.

(2) The proper Officer shall approve the list with such modifications as considered necessary by him and return one copy of the approved list to the assessee who shall, unless otherwise directed by the proper Officer, determine the duty payable on the goods intended to be removed for, or put to, home use, in accordance with such list.

(3) Where the assessee disputes the rate of duty approved by the proper Officer in respect of any goods, he may, after giving an intimation to that effect to such officer, either pay duty under protest at the rate approved by such officer or, after obtaining approval of the proper Officer to that effect, avail of the procedure prescribed under rule 9B for provisional assessment of the goods.

(4) If in the list approved by the proper officer under sub-rule (2), any alteration becomes necessary because of—

- (a) the assessee commencing production, manufacture or warehousing of goods not mentioned in that list, or
- (b) the assessee intending to remove from his factory any non-excisable goods not mentioned in that list, or
- (c) a change in the rate or rates of duty in respect of the goods mentioned in that list or, by reason of any amendment to the First Schedule to the Act, a change in the item number and sub-item,

the assessee shall likewise file a fresh list or an amendment of the list already filed for the approval of such officer.

(5) When the dispute about the rate of duty has been finalised or for any other reasons affecting rate or rates of duty a modification of the rate or rates of duty is necessitated, the proper Officer shall make such modification and inform the assessee accordingly.

173C. Assessee to file price list of goods assessable ad valorem.—(1) Every assessee, who produces, manufactures or warehouses goods which are chargeable with duty at a rate dependent on the value of the goods, shall file with the proper officer for his approval a price list in such form and in such manner and at such

intervals as the Collector may require, showing the price of each of such goods and the trade discount, if any, allowed in respect thereof to the buyers.

(2) The proper Officer shall approve the price list after making such modifications as he may consider necessary so as to bring the value shown in the said list to the correct value, for the purpose of assessment as provided in Section 4 of the Act. He shall thereafter return one copy of the list approved as aforesaid to the assessee who shall, unless otherwise directed by the proper Officer, determine the duty payable on the goods intended to be removed for, or put to, home use, in accordance with such list.

(3) If in the list approved by the proper Officer under sub-rule (2), any alteration becomes necessary for any reason, the assessee shall likewise file a fresh list or an amendment of the list already filed for the approval of such officer.

173D. Assessee to furnish formula of manufacture of excisable goods.

(1) Where the assessee is a manufacturer, he shall, if so required by the Collector, furnish to the Assistant Collector of Central Excise in respect of each excisable goods manufactured or to be manufactured by him the formula of manufacture, that is to say, showing the quantity or percentage quantity of each material required for manufacture of unit quantity of such excisable goods.

(2) If the assessee intends to make any alteration in the formula furnished under sub-rule (1), he shall likewise furnish a fresh formula to the Assistant Collector.

173E. Determination of normal production.—(1) Any officer duly empowered by the Collector in this behalf may fix the quantum and period of time when the production in the assessee's factory was considered normal by such officer, having regard to the installed capacity of the factory, raw material utilisation, labour employed, power consumed and such other relevant factors as he may deem appropriate. The normal quantum of production during a given time so determined by such officer shall form the norm. The assessee shall, if so required by the proper Officer, be called upon to explain any shortfall in production during any time as compared to the norm.

(2) The Officer empowered as aforesaid may revise the norm as determined by him at any time if any material factor affecting the production of the factory undergoes a change.

173F. Assessee to determine the duty due on the goods and to remove them on payment thereof.—Where the assessee has complied with the provisions of rules 173B, 173D and, where applicable, 173C, he shall himself determine his liability for the duty due on the excisable goods intended to be removed for, or put to, home use and shall not, except as otherwise expressly provided in these Rules, remove for, or put to, home use such goods unless he has paid the duty so determined. The assessee shall also comply with the procedure specified in the rules following.

173G Procedure to be followed by the assessee.—(1) Every assessee (other than an assessee who is a manufacturer of matches or of cigars and cheroots who is required to discharge his duty liability in accordance with the provisions of rule 64 or rule 93, as the case may be, shall keep an account-current with the Collector

in such form and manner as the Collector, may require, of the duties payable on the excisable goods and in particular such account (and also the account in Form R.G. 23, if the assessee is availing of the procedure prescribed in rule 56A) shall be maintained in triplicate by using indelible pencil and double-sided carbon, and the assessee shall periodically make credit in such account-current, by cash payment into the treasury or, where so permitted by the Collector, by sending (by registered post) a cheque for the requisite amount to the Chief Accounts Officer of the Collector, so as to keep the balance in such account-current sufficient to cover the duty due on the goods intended to be removed at any time; and every such assessee shall pay the duty determined by him for each consignment by debit to such account-current before removal of the goods:

Provided that the duty due on the goods consumed within the factory in a continuous process may be so paid at the end of the factory day:

Provided further that the proper Officer may allow an assessee, who removes on an average more than twenty consignments in a day, to make a consolidated debit in the account-current at the end of the day towards payment of the duty.

(2) Notwithstanding the provisions of sub-rule (1) of rule 224 but subject to the other provisions of that rule, every assessee shall, except as otherwise expressly provided in these rules, forthwith remove the goods on which duty has been determined and paid; every such removal shall take place under a gate-pass or gate-passes or like document or documents in accordance with the provisions of rule 52A but without the proper Officer's counter-signature, and such gate-pass or gate-passes or like document or documents shall also show the rate and the amount of duty paid on such goods and the time of actual removal of the goods from the factory:

Provided that a single gate-pass or like document may be issued at the end of the factory day to cover removal of goods consumed within the factory in a continuous process.

(3) Every assessee shall file with the proper Officer a fortnightly return in quadruplicate on the working day next following the 15th day and the last day of each month, showing the description, quantity, value and the rate and amount of duty and such other particulars as the Collector may require, in respect of the goods removed by him during the said period; and every such return shall be accompanied by,—

- (a) triplicate copy of each of the gate-passes or like documents issued;
- (b) a recapitulation of all such gate-passes or like documents;
- (c) receipted treasury challans on which deposits in the account-current were made by payment into the Government treasury; and
- (d) original and duplicate copies of the account-current and also of the account in Form R.G. 23, as the case may be, maintained

by the assessee during the said period; and if there was no removal of excisable goods during the said period, the assessee shall file with the proper Officer a 'nil' return, unless directed otherwise by the Collector:

Provided that the Collector may, having regard to the nature and extent of the production, manufacture or removals, fix in relation to any assessee or class of assessee a different period from that aforesaid.

(4) Every assessee shall maintain such accounts, as the Collector may from time to time require, of the production, manufacture, storage, delivery or disposal of the goods, including the materials received for or consumed in the manufacture of excisable or other goods, the goods and materials in stock with him and the duty determined and paid by him.

(5) Every assessee shall furnish to the proper Officer a list in duplicate of all accounts maintained and returns prepared by him (whether the same is maintained or prepared in pursuance of these rules or not) in regard to the production, manufacture, storage, delivery or disposal of the goods, including the raw-materials.

(6) Every assessee shall on demand produce to the Central Excise Officers, or the audit parties deputed by the Collector or the Comptroller and Auditor General of India, the accounts and returns (whether the same is maintained or prepared in pursuance of these rules or not) for the scrutiny of the officers or audit parties, as the case may be.

(7) Every assessee shall deliver to the proper Officer at the end of every month the return specified under rule 55.

173H. Retention or re-entry of duty-paid goods in the factory or warehouse.—The assessee may, subject to such conditions as may be specified by the Collector, retain in, or bring into, his factory or warehouse the goods on which duty has been paid if such goods—

- (a) are required for use in the manufacture of other goods in the factory; or
- (b) need to be re-made, refined, reconditioned, repaired or subjected to any similar process in the factory; or
- (c) cannot be transported due to circumstances beyond the assessee's control such as the suspension of booking on railways, non-availability of railway wagon or the break-down of carriers; or
- (d) are required for test or for studying designs or method of construction; or
- (e) are required to be stored in the factory premises for retail sale or for issue as complimentary gifts or for repacking into packages so as to suit the requirements of individual customers.

173I. Assessment by proper Officer.—(1) The proper Officer shall on the basis of the information contained in the return filed by the assessee under sub-rule (3) of rule 173G and after such further inquiry as he may consider necessary, assess the duty due on the goods removed for, or put to, home use and complete the assessment memorandum on the return. A copy of the return so completed shall be sent to the assessee.

(2) The duty determined and paid by the assessee under rule 173F shall be adjusted against the duty assessed by the proper Officer under sub-rule (1) and where the duty so assessed is more than the duty determined and paid by the assessee, the assessee shall pay the deficiency within ten days of receipt of copy of the return from the proper Officer and where such duty is less, the assessee shall be entitled to a refund.

173J. Time limit for recovery of short levy or refund of excess levy.—The provisions of rules 10 and 11 shall apply to the assessee as if for the expression 'three months', the expression 'one year' were substituted in those rules.

173K. Confiscation and penalty.—If any manufacturer, producer or licensee of warehouse,

- (a) removes any excisable goods in contravention of the provisions of any rule, or
- (b) does not account for all such goods manufactured, produced or stored by him, or
- (c) engages in the manufacture, production or storage of such goods without having applied for the licence required under section 6 of the Act, or
- (d) contravenes the provisions of any rule with intent to evade payment of duty,

then—

- (i) any land, building, plant, machinery, materials, conveyance, animal or any other thing used in connection with the manufacture, production, storage, removal or disposal of such goods, and
- (ii) all excisable goods on such land or in such building or produced or manufactured with such plant, machinery, materials or thing,

belonging to such manufacturer, producer or licensee shall be liable to confiscation and the manufacturer, producer or licensee shall be liable to a penalty not exceeding three times the value of the excisable goods in respect of which any contravention of the nature referred to in clauses (a), (b), (c) or (d) has been committed, or five thousand rupees, whichever is greater and in every case where there has been such a contravention the proper Officer may assess the duty due to the best of his judgment and the assessee shall thereupon pay the duty so assessed."

[No. 112/68.]

G.S.R. 873.—In exercise of the powers conferred by clause (i) of sub-rule (1) of rule 173A of the Central Excise Rules, 1944, the Central Government hereby specifies the following excisable goods as excisable goods to which the provisions of Chapter VII-A shall apply, namely:—

- (1) unmanufactured tobacco comprised in Item No. 4-I of the First Schedule to the Central Excises and Salt Act, 1944 (1 of 1944) belonging to a manufacturer of cigarettes and stored in a private warehouse licensed under rule 140 of the said rules and situated within the precincts of a cigarette factory, and
- (2) the goods comprised in Item Nos. 1(1), 1A, 2, 3, 4-II, 12, 13, 14A, 14B, 14BB, 14C, 14D, 14DD, 14E, 14F, 14G, 14H, 15, 15A, 15AA, 15B, 16, 16A, 16B, 18, 18B, 20, 21, 22, 22B, 22C, 23, 23A, 23B, 23C, 25, 26, 26A, 26AA, 26B, 27, 27A, 28, 29, 29A, 30, 31, 32, 33, 33A, 33AA, 33B, 34, 36, 37, 37A, 38, 39, 40 and 41 of the said First Schedule.

2. This Notification shall come into force on 1st June, 1968.

[No. 113/68.]

K. L. REKHI, Under Secy.

